



Mutual Fund Dealers Association of Canada
Association canadienne des courtiers de fonds mutuels

**IN THE MATTER OF A DISCIPLINARY HEARING
PURSUANT TO SECTIONS 20 AND 24 OF BY-LAW NO. 1 OF
THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA**

Re: Carmine Paul Mazzotta and David John Ireland

ORDER

(ARISING FROM MOTION ON JUNE 14, 2016)

WHEREAS on November 4, 2015, the Mutual Fund Dealers Association of Canada (the “MFDA”) issued a Notice of Hearing pursuant to sections 20 and 24 of By-law No. 1 in respect of a disciplinary proceeding commenced against Carmine Paul Mazzotta and David John Ireland (the “Respondents”);

AND WHEREAS the Respondents served and filed a Reply to the Notice of Hearing on Thursday, December 3, 2015 in which they deny the allegations made against them;

AND WHEREAS counsel for Staff of the MFDA (“Staff”) and counsel for the Respondents previously attended appearances by teleconference before a public representative of the Central Regional Council of the MFDA on Thursday, January 7, 2016 and May 16, 2016 to address procedural matters including scheduling;

AND WHEREAS the Respondents delivered a Motion Record dated June 1, 2016 to commence a pre-hearing motion in accordance with Rule 6 of the MFDA Rules of Procedure in which the Respondents requested the following relief:

- a) an Order amending the Notice of Hearing [by striking out paragraphs 16-19 and 23 of the Notice of Hearing and by adding paragraph 24A which was drafted by counsel for the Respondents;
- b) a direction that the scope of the evidentiary record at the disciplinary hearing be limited to matters relevant to the single complaint handling allegation made in the Notice of Hearing;
- c) a direction that Staff shall, at the commencement of the disciplinary hearing, confirm on the public record, the following:
 - i. that Staff take no position regarding the merits of the Complaint submitted by JN;
 - ii. that Staff are not seeking a direct or indirect finding from the Hearing Panel on the merits of the Complaint;
- d) in the alternative, a direction that Staff shall make requests of Sterling Mutuals Inc. (“Sterling”) for and produce to the Respondents to the extent available, the following additional disclosure:
 - i. Copies of the complete file for JN (and his spouse, NG) since the date of the transfer of their account to a new advisor at Sterling including, but not limited to:
 - all Know-Your-Client forms and account opening documents completed by JN and NG; and
 - copies of all account statements sent to JN and/or NG by their new investment advisor, to present.
- e) an order that the Respondents deliver any additional deliver any additional disclosure they intend to rely on at the disciplinary hearing no later than 21 days in advance of the hearing; and
- f) such further and other relief as the Hearing Panel may deem just.

AND WHEREAS Staff opposed the relief sought by the Respondents;

AND WHEREAS the Respondents brought their motion on the basis that the only contravention alleged in the Notice of Hearing is that the Respondents mishandled the complaint of one client during a specific time period and the Notice of Hearing does not contain allegations of regulatory contraventions in respect of the handling of that client's account by the Respondents;

AND WHEREAS counsel for the Respondents and counsel for Staff appeared before the Hearing Panel in person on June 14, 2016 to make oral submissions with respect to the relief sought by the Respondents in the motion;

AND WHEREAS the Hearing Panel found that evidence relating to the handling of the client's account is not relevant to the single allegation in the Notice of Hearing that the complaint was mishandled and is therefore inadmissible;

IT IS HEREBY ORDERED THAT:

1. The Respondents' request to amend the Notice of Hearing is dismissed.
2. At the Hearing on the Merits, the parties may not tender evidence or conduct cross-examination relating to the factual allegations made in paragraphs 16, 17, 18, 19 and 23 of the Notice of Hearing.
3. The Respondents' request for an order directing Staff to state that Staff takes no position regarding the merits of the complaint of JN is dismissed.
4. The Respondents' request for additional disclosure is dismissed.
5. The Respondents shall provide disclosure to Staff in accordance with Rule 10.2 of the MFDA Rules of Procedure, on or before June 30, 2016.

6. The hearing of this matter on its merits shall take place in the hearing room located at the offices of the MFDA located at 121 King Street West, Suite 1000, Toronto, Ontario from September 26-29, 2016.

DATED this 14th day of June, 2016.

“P. T. Galligan”

The Hon. P. T. Galligan, Q.C.
Chair

“Matthew Onyeaju”

Matthew Onyeaju
Industry Representative

“Rob Christianson”

Rob Christianson
Industry Representative

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